

Serial No.: 09/721,101  
Examiner: Inder P. Mehra

**REMARKS/ARGUMENTS**

The Specification has been amended as requested by the Examiner.

Claims 1-17, 19-26, and 28-35 remain in this application. Claims 18, 27, and 36 have been canceled. Claims 8, 14, 23 and 28 have been amended. Claims 1, 8, 14, and 23 are independent.

In the Official Action, claim 28 was rejected under 35 USC §112, second paragraph. In particular, it was set forth that claim 28 recites the limitation "the apparatus" in line 1. Applicants have amended claim 28 to include the limitation "switch" per the Examiner's recommendation. Therefore, Applicants respectfully request that this rejection be withdrawn.

Independent claims 1, 8, 14 and 23 were rejected under 35 USC § 102(e) as being anticipated by *Maier* (U.S. Patent No. 6,654,373). In support of this rejection, it was set forth that *Maier* discloses "the second and third priority value is determined based on one or more flow properties including at least one value from a packet field that is not dedicated to defining QoS" (*Maier* col. 1, lines 30-35, col. 5, lines 25-32). Applicants respectfully traverse the rejection. While *Maier* may indicate flow priorities not dedicated to defining QoS, it does not disclose, teach or render obvious using these in QoS shaping, as is presently claimed. Therefore, Applicants respectfully request that this rejection be withdrawn and the claims be indicated to be allowable.

Claims 2-7 and 31-33 depend from and further limits, in a patentable sense, independent claim 1 and, hence, is/are submitted to be in condition for allowance.

Claims 9-13 and 34-35 depend from and further limits, in a patentable sense, independent claim 8 and, hence, is/are submitted to be in condition for allowance.

Claims 15-17 and 19-22 depend from and further limits, in a patentable sense, independent claim 14 and, hence, is/are submitted to be in condition for allowance. Claim 18 has been canceled.

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Claims 24-26 and 28-30 depend from and further limits, in a patentable sense, independent claim 23 and, hence, is/are submitted to be in condition for allowance. Claim 27 has been canceled.

It is believed that the foregoing amendment places the Application in condition for allowance; therefore, Applicant respectfully requests withdrawal of the Examiner's rejection of the claims as set forth in the Office Action, and full allowance of same. Should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner contact the undersigned to expeditiously resolve any outstanding issues.

Respectfully submitted,

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